

PATEN
Attorney Docket No. 25,835-

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No.: 5,750,338

Inventors: Collins et al.

Issue Date: May 12, 1998

For: TARGET AND BACKGROUND
CAPTURE METHODS WITH
AMPLIFICATION FOR
AFFINITY ASSAYS

CERTIFICATE

MAY 12 1999

OF CORRECTION

Attn: Certificate of Correction Branch

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves 1 page.

The mistakes identified in the appended Form are of minor character, and resulted from errors made in good faith by patentees.

REMARKS

Patentees are filing herewith petitions to amend and amendments to abandoned U.S. applications Serial No. 08/124,826, filed September 21, 1993, Serial No. 07/946,749, filed September 17, 1992, and Serial No. 07/648,468, filed January 31, 1991. These petitions and amendments are for the purpose of claiming the benefit under 35 U.S.C. § 120 of the aforementioned three applications, as well as applications Serial Nos.

LAW OFFICES
EGAN, HENDERSON,
LABOW, GARRETT
DUNNER, L.L.P.
ORD RESEARCH PARK
30 HANSEN WAY
ALTO, CALIF. 94504
415-849-6600

APPROVED

AUG 10 1999

May 10 1999
PATENT & T.M.

FAX RECEIVED
APR 28 1999
PETITION

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07/644,967, filed January 22, 1991, 07/136,920, filed December 21, 1987, and 06/922,155, filed October 23, 1986.

U.S. Patent No. 5,750,338 issued from an application that was originally filed on December 21, 1987 as application Serial No. 07/136,920 (see attached chart), which was a continuation-in-part of application Serial No. 06/922,155, filed October 23, 1986. Application Serial No. 07/644,967 was a continuation of application Ser. No. 07/136,920 and application Serial No. 07/944,505 was a continuation of application Ser. No. 07/644,967. During prosecution of application Serial No. 07/944,505, patentees inadvertently failed to respond to the November 5, 1992 Office Action and the application was unintentionally abandoned. Patentees filed a Petition to Revive the application but the petition was barred by 37 C.F.R. § 1.137(b) because it was filed more than one year after the date the application was abandoned. U.S. Patent No. 5,750,338 eventually issued from application Serial No. 08/238,080, filed May 3, 1994.

Because application Serial No. 07/944,505 was abandoned before application Serial No. 08/238,080 was filed, thus destroying copendency, the claim for benefit under 35 U.S.C. § 120 of prior applications through application Ser. No. 07/944,505 back to applications Serial Nos. 07/136,920 and 06/922,155 could not be properly made. Therefore, patentees amended the specification of application Serial No. 08/238,080 to claim benefit under 35 U.S.C. § 120 of a chain of related applications, beginning with application Serial No. 08/400,657, that also originated from applications 06/922,155 and 07/136,920 (see attached chart). This chain of related applications was first filed on January 31, 1991 as application Serial No. 07/648,468. Application Serial No.

08238080-050394
LAW OFFICES
NECAN, HENDERSON,
ARABOW, GARRETT
& DUNNER, L.L.P.
IFORD RESEARCH PARK
700 HANSEN WAY
O ALTO, CALIF. 94304
850-849-8800

07/648,468 was filed as a continuation-in-part of applications 06/922,155 and 07/136,920 and specifically incorporated by reference the disclosures of those applications. Accordingly, because application Serial No. 07/648,468, and subsequently filed applications in that chain, including application Ser. No. 08/400,657, incorporated by reference the disclosure of application Serial No. 07/136,920, those applications provide proper § 112 support for the claims of U.S. Patent No. 5,750,338.

This Certificate of Correction and the accompanying petitions and amendments to abandoned applications are being filed because (1) application Serial No. 08/400,657 was not pending as of May 3, 1994, the filing date of application Serial No. 08/238,080, and (2) applications Serial Nos. 06/922,155 and 07/136,920 were not pending as of the filing date of application Serial No. 07/648,468. These errors were made inadvertently by patentees and in good faith. Patentees first became aware of error (1) after allowance of application Serial No. 238,080. An Amendment After Allowance was filed on December 10, 1997 to correct this error but the amendment was apparently never entered by the Patent Office. Patentees only recently became aware of error (2) and the resulting copendency problem after a review of the prosecution history of U.S. Patent No. 5,750,338 in consideration of possible litigation.

Issuance of the Certificate of Correction containing the correction is earnestly requested.

A check in the amount of \$100 (the fee set forth in 37 C.F.R. § 1.20(a)) is appended to cover the costs of issuing this Certificate.

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT
& DUNNER, L.L.P.
STANFORD RESEARCH PARK
700 HANSEN WAY
PALO ALTO, CALIF. 94304
650-848-6000

If any additional fees are due in connection with the filing of this request, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 01-0528.

Respectfully submitted,

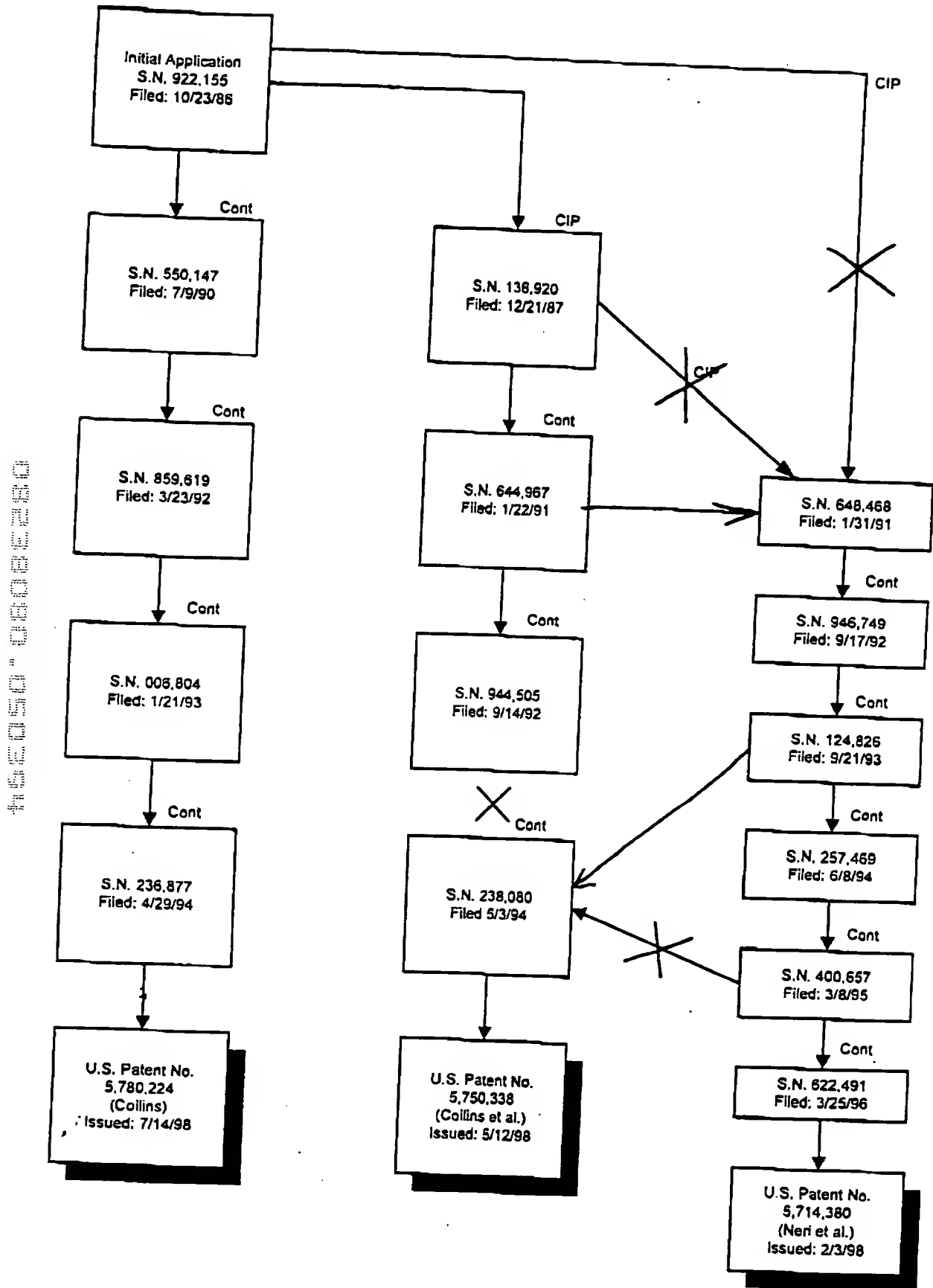
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER

By: Thomas W. Banks
Thomas W. Banks
Reg. No. 32,719

Dated: December 14, 1998

01-0528-02086916

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT
& DUNNER, L.L.P.
SANFORD RESEARCH PARK
700 HANSEN WAY
MILPITAS, CALIF. 95034
650-849-6600



UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 5,750,338
DATED : May 12, 1998
INVENTOR(S) : Collins et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please delete the Related U.S. Application Data [62] in its entirety and replace with:

--Continuation of Ser. No. 124,826, Sept. 21, 1993, abandoned, which is a continuation of Ser. No. 946,749, Sept. 17, 1992, abandoned, which is a continuation of Ser. No. 648,468, Jan. 31, 1991, abandoned, which is a continuation-in-part of Ser. No. 644,967, Jan. 22, 1991, abandoned, which is a continuation-in-part of Ser. No. 136,920, Dec. 21, 1987, abandoned, which is a continuation-in-part of Ser. No. 922,155, Oct. 23, 1986, abandoned.--

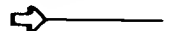
Please delete col. 1, lines 5-19, and replace with:

--This application is a continuation of application Ser. No. 124,826, filed Sept. 21, 1993, now abandoned, which is a continuation of application Ser. No. 946,749, filed Sept. 17, 1992, now abandoned, which is a continuation of application Ser. No. 648,468, filed Jan. 31, 1991, now abandoned, which is a continuation-in-part of application Ser. No. 644,967, filed Jan. 22, 1991, now abandoned, which is a continuation of application Ser. No. 136,920, filed Dec. 21, 1987, now abandoned and hereby incorporated by reference, which application is a continuation-in-part of application Ser. No. 922,155, filed Oct. 23, 1986, now abandoned and hereby incorporated by reference.--

MAILING ADDRESS OF SENDER:

PATENT NO. 5,750,338

No. of add'l copies
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FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.

13001 Street, N.W.
Washington, D.C. 20005-3315

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WASHINGTON, D.C. 20005

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FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, L.L.P.

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECKS IS IN PAYMENT OF ITEMS DESCRIBED BELOW.
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

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